

Message Text

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SUBJECT: HAITI ESTABLISHES "COURT FOR THE SECURITY OF THE STATE"

1. BEGIN SUMMARY. THE LONG RUMORED NEW TRIBUNAL FOR DEALING WITH POLITICAL OFFENSES WILL SOON BE CREATED IN ACCORDANCE WITH A LAW APPROVED BY THE HAITIAN LEGISLATIVE ASSEMBLY. THE CREATION OF THE "TRIBUNAL DE SURETE DE L'ETAT" MEANS POLITICAL PRISONERS WILL NOW BE OPENLY TRIED BEFORE CIVILIAN JUDGES INSTEAD OF IN A CLOSED MILITARY TRIBUNAL WHICH WAS, IN FACT, RARELY CONVOKED. IN TERMS OF U.S. HUMAN RIGHTS' INTERESTS IT MEANS THAT THE HAITIAN GOVERNMENT HAS TAKEN ANOTHER STEP IN ITS CONTINUING EFFORT TO RECTIFY PAST ABUSES. WE EXPECT THE GOH WILL NOW MOVE TO TRY CERTAIN POLITICAL PRISONERS AND RELEASE OTHERS. END SUMMARY.

2. IN ONE OF ITS LAST ACTS BEFORE THE END OF ITS ANNUAL SESSION ON AUGUST 21, THE HAITIAN LEGISLATIVE ASSEMBLY APPROVED A LAW PROPOSED BY THE GOVERNMENT CREATING A COURT FOR THE SECURITY OF THE STATE. THE EMBASSY HAD REPORTS BEGINNING IN FEBRUARY AND MARCH OF THIS YEAR THAT THE GOVERNMENT WAS DRAFTING LEGISLATION TO CREATE A CIVIL COURT TO DEAL WITH
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POLITICAL OFFENSES MODLED ON SIMILAR INSTITUTIONS IN FRANCE AND OTHER NAPOLEONIC CODE COUNTRIES. RECENT CONVERSATIONS CONFIRM THAT PROPOSED LEGISLATION WAS CAREFULLY PREPARED AND CHECKED WITH NUMEROUS LEGAL AUTHORITIES. THUS, DESPITE FACT IT WAS PUBLISHED WITHIN A WEEK OF AMBASSADOR ANDREW YOUNG'S VISIT TO HAITI, IS WAS NOT A HASTILY CONCEIVED RESPONSE TO THAT EVENT. THE LAW WILL TAKE EFFECT AS SOON AS IT IS PUBLISHED

IN THE GOVERNMENT'S OFFICIAL JOURNAL, LE MONITEUR, EXPECTED IN THE NEXT FEW DAYS.

3. THE COURT'S TERMS OF REFERENCE ARE, TO SOME HAITIANS, DISTURBINGLY BROAD. IT IS EMPOWERED, "IN TIMES OF PEACE TO JUDGE ALL CRIMES AND OFFENSES AGAINST THE INTERNAL AND EXTERNAL SECURITY OF THE STATE; INFRACTIONS IN WHICH THE GOAL OR MOTIVATION IS OF A POLITICAL CHARACTER; AND OFFENSES RELATED (CONNEXES) TO THE PRECEDING ONES." THE 28 ARTICLES COMPOSING THE LAW ESTABLISHING THE TRIBUNAL, HOWEVER, DETAIL PROCEDURES WHICH IF FOLLOWED, ACCORD CONSIDERABLE PROTECTION TO THE ACCUSED.

4. THE NEW COURT WILL END THE PRACTICE, MORE HONORED IN THE BREACH THAN IN THE OBSERVANCE, OF TRYING POLITICAL OFFENSES BEFORE A MILITARY TRIBUNAL -- WHOSE DELIBERATIONS (WHEN IT DID MEET) WERE BEHIND CLOSED DOORS. TO WHAT EXTENT THE COURT WILL BE USED, HOWEVER, IS STILL UNCERTAIN. THERE IS APPARENTLY A CONTINUING ARGUMENT BETWEEN THOSE WHO BELIEVE TRIAL OF POLITICAL PRISONERS IS BOTH PROPER AND SAFE AND THOSE WHO BELIEVE PUBLIC TRIALS WOULD CAUSE DIFFICULT POLITICAL PROBLEMS. THE MANNER IN WHICH THIS COURT IS USED WILL PROVIDE AN ADDITIONAL MEASURE OF THE GOH'S EXPRESSED INTENTION TO IMPROVE ITS HUMAN RIGHTS PERFORMANCE.
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